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INTERTRUST TECHNOLOGIES CORPORATION

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13 UNITED STATES DISTRICT COURT
14 NORTHERN DISTRICT OF CALIFORNIA
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16 INTERTRUST TECHNOLOGIES
CORPORATION,
17 a Delaware corporation,
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1 Title 35, United States Code, more particularly 35 U.S.C. §§ 271 and 281.

2 2. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a).

3 3. Venue is proper in this judicial district under 28 U.S.C. §§ 1391(c) and 1400(b).

4 **THE PARTIES**

5 4. Plaintiff InterTrust is a Delaware corporation with its principal place of business
6 at 4750 Patrick Henry Drive, Santa Clara, California.

7 5. InterTrust is informed and believes, and on that basis alleges, that Defendant
8 Microsoft is a Washington Corporation with its principal place of business at One Microsoft
9 Way, Redmond, Washington.

10 6. InterTrust is informed and believes, and on that basis alleges, that Defendant
11 Microsoft does business in this judicial district and has committed and is continuing to commit
12 acts of infringement in this judicial district.

13 7. InterTrust is the owner of United States Patent No. 6,185,683 B1, entitled
14 "Trusted and secure techniques, systems and methods for item delivery and execution" ("the
15 '683 patent"), duly and lawfully issued on February 6, 2001.

16 8. InterTrust is the owner of United States Patent No. 6,253,193 B1, entitled
17 "Systems and methods for secure transaction management and electronic rights protection" ("the
18 '193 patent"), duly and lawfully issued on June 26, 2001.

19 9. InterTrust is the owner of United States Patent No. 5,940,504, entitled "Licensing
20 management system and method in which datagrams including an address of a licensee and
21 indicative of use of a licensed product are sent from the licensee's site" ("the '504 patent"), duly
22 and lawfully issued on August 17, 1999.

23 10. InterTrust is the owner of United States Patent No. 5,920,861, entitled
24 "Techniques for defining, using and manipulating rights management data structures" ("the '861
25 patent"), duly and lawfully issued on July 6, 1999.

26 11. InterTrust is the owner of United States Patent No. 5,892,900, entitled "Systems
27 and methods for secure transaction management and electronic rights protection" ("the '900
28 patent"), duly and lawfully issued on April 6, 1999.

12. InterTrust is the owner of United States Patent No. 5,982,891, entitled "Systems and methods for secure transaction management and electronic rights protection" ("the '891 patent"), duly and lawfully issued on November 9, 1999.

13. InterTrust is the owner of United States Patent No. 5,917,912 entitled "System and methods for secure transaction management and electronic rights protection" ("the '912 patent"), duly and lawfully issued on June 29, 1999.

FIRST CLAIM FOR RELIEF

14. InterTrust hereby incorporates by reference paragraphs 1-7 as if restated herein.

15. This is a claim for patent infringement under 35 U.S.C. §§ 271 and 281.

16. InterTrust is informed and believes, and on that basis alleges, that Microsoft has been and is infringing the '683 patent under § 271(a) by making and using systems incorporating Windows Media Player Versions 7 and 8. In addition, on information and belief, InterTrust alleges that Microsoft is making and using other systems and/or is in the process of developing other systems, which infringe the '683 patent under § 271(a). InterTrust is further informed and believes, and on that basis alleges, that Microsoft's infringement of the '683 patent under §271(a) will continue unless enjoined by this Court.

17. InterTrust is informed and believes, and on that basis alleges, that Microsoft has been and is knowingly and intentionally inducing others to infringe directly the '683 patent under § 271(a), thereby inducing infringement of the '683 patent under § 271(b). InterTrust is further informed and believes that Microsoft's inducement has at least included the manner in which Microsoft has promoted and marketed use of Windows Media Player Versions 7 and 8. InterTrust is further informed and believes, and on that basis alleges, that Microsoft's infringement of the '683 patent under §271(b) will continue unless enjoined by this Court.

18. InterTrust is informed and believes, and on that basis alleges, that Microsoft has been and is contributorily infringing the '683 patent under § 271(c) by providing digital rights management software and related functions especially made or especially adapted for infringing use and not staple articles or commodities of commerce suitable for substantial noninfringing

1 use, including at least Windows Media Player Versions 7 and 8. InterTrust is further informed
2 and believes, and on that basis alleges, that Microsoft's infringement of the '683 patent under
3 §271(c) will continue unless enjoined by this Court.

4 19. InterTrust is informed and believes, and on that basis alleges, that Microsoft is
5 willfully infringing the '683 patent in the manner described above in paragraphs 16 through 18,
6 and will continue to do so unless enjoined by this Court.

7 20. InterTrust is informed and believes, and on that basis alleges, that Microsoft has
8 derived and received, and will continue to derive and receive from the aforesaid acts of
9 infringement gains, profits, and advantages, tangible and intangible, the extent of which are not
10 presently known to InterTrust. By reason of the aforesaid acts of infringement, InterTrust has
11 been, and will continue to be, irreparably harmed.

12 **SECOND CLAIM FOR RELIEF**

13 21. InterTrust hereby incorporates by reference paragraphs 1-6 and 8 as if restated
14 herein.

15 22. This is a claim for patent infringement under 35 U.S.C. §§ 271 and 281.

16 23. InterTrust is informed and believes, and on that basis alleges, that Microsoft has
17 been and is infringing the '193 patent under § 271(a) by using Windows Media Player Versions
18 7 and 8. In addition, on information and belief, InterTrust alleges that Microsoft is making and
19 using other systems and/or is in the process of developing other systems, which infringe the '193
20 patent under § 271(a). InterTrust is further informed and believes, and on that basis alleges, that
21 Microsoft's infringement of the '193 patent under §271(a) will continue unless enjoined by this
22 Court.

23 24. InterTrust is informed and believes, and on that basis alleges, that Microsoft has
24 been and is knowingly and intentionally inducing others to infringe directly the '193 patent under
25 § 271(a), thereby inducing infringement of the '193 patent under § 271(b). InterTrust is further
26 informed and believes that Microsoft's inducement has at least included the manner in which
27 Microsoft has promoted and marketed use of Windows Media Player Versions 7 and 8.
28 InterTrust is further informed and believes, and on that basis alleges, that Microsoft's

1 infringement of the '193 patent under §271(b) will continue unless enjoined by this Court.

2 25. InterTrust is informed and believes, and on that basis alleges, that Microsoft has
3 been and is contributorily infringing the '193 patent under § 271(c) by providing digital rights
4 management software and related functions especially made or especially adapted for infringing
5 use and not staple articles or commodities of commerce suitable for substantial noninfringing
6 use, including at least Windows Media Player Versions 7 and 8. InterTrust is further informed
7 and believes, and on that basis alleges, that Microsoft's infringement of the '193 patent under
8 §271(c) will continue unless enjoined by this Court.

9 26. InterTrust is informed and believes, and on that basis alleges, that Microsoft is
10 willfully infringing the '193 patent in the manner described above in paragraphs 23 through 25,
11 and will continue to do so unless enjoined by this Court.

12 27. InterTrust is informed and believes, and on that basis alleges, that Microsoft has
13 derived and received, and will continue to derive and receive from the aforesaid acts of
14 infringement gains, profits, and advantages, tangible and intangible, the extent of which are not
15 presently known to InterTrust. By reason of the aforesaid acts of infringement, InterTrust has
16 been, and will continue to be, irreparably harmed.

17 **THIRD CLAIM FOR RELIEF**

18 28. InterTrust hereby incorporates by reference paragraphs 1-6 and 9 as if restated
19 herein.

20 29. This is a claim for patent infringement under 35 U.S.C. §§ 271 and 281.

21 30. InterTrust is informed and believes, and on that basis alleges, that Microsoft has
22 been and is infringing the '504 patent under § 271(a) by Microsoft's use of the Product
23 Activation feature of Windows XP, Office XP, and other Microsoft products. In addition, on
24 information and belief, InterTrust alleges that Microsoft is making and using other systems
25 and/or is in the process of developing other systems, which infringe the '504 patent under §
26 271(a). InterTrust is further informed and believes, and on that basis alleges, that Microsoft's
27 infringement of the '504 patent under §271(a) will continue unless enjoined by this Court.

28 31. InterTrust is informed and believes, and on that basis alleges, that Microsoft has

1 been and is knowingly and intentionally inducing others to infringe directly the '504 patent under
2 § 271(a), thereby inducing infringement of the '504 patent under § 271(b). InterTrust is further
3 informed and believes that Microsoft's inducement has at least included the manner in which
4 Microsoft has promoted and marketed use of the Product Activation feature of Windows XP,
5 Office XP, and other Microsoft products. InterTrust is further informed and believes, and on that
6 basis alleges, that Microsoft's infringement of the '504 patent under §271(b) will continue unless
7 enjoined by this Court.

8 32. InterTrust is informed and believes, and on that basis alleges, that Microsoft has
9 been and is contributorily infringing the '504 patent under § 271(c) by providing digital rights
10 management software and related functions especially made or especially adapted for infringing
11 use and not staple articles or commodities of commerce suitable for substantial noninfringing
12 use, including the Product Activation feature of Windows XP, Office XP, and other Microsoft
13 products. InterTrust is further informed and believes, and on that basis alleges, that Microsoft's
14 infringement of the '504 patent under §271(c) will continue unless enjoined by this Court.

15 33. InterTrust is informed and believes, and on that basis alleges, that Microsoft is
16 willfully infringing the '504 patent in the manner described above in paragraphs 30 through 32,
17 and will continue to do so unless enjoined by this Court.

18 34. InterTrust is informed and believes, and on that basis alleges, that Microsoft has
19 derived and received, and will continue to derive and receive from the aforesaid acts of
20 infringement gains, profits, and advantages, tangible and intangible, the extent of which are not
21 presently known to InterTrust. By reason of the aforesaid acts of infringement, InterTrust has
22 been, and will continue to be, irreparably harmed.

23 **FOURTH CLAIM FOR RELIEF**

24 35. InterTrust hereby incorporates by reference paragraphs 1-6 and 10 as if restated
25 herein.

26 36. This is a claim for patent infringement under 35 U.S.C. §§ 271 and 281.

27 37. InterTrust is informed and believes, and on that basis alleges, that Microsoft has
28 been and is infringing the '861 patent under § 271(a) by making, using, selling, and offering for

1 sale digital rights management software incorporating inventions claimed in the '861 patent,
2 including but not limited to the Digital Asset Server and Microsoft Reader. In addition, on
3 information and belief, InterTrust alleges that Microsoft is making and using other systems
4 and/or is in the process of developing other systems, including Microsoft's .NET architecture,
5 which infringe the '861 patent under § 271(a). InterTrust is further informed and believes, and
6 on that basis alleges, that Microsoft's infringement of the '861 patent under §271(a) will
7 continue unless enjoined by this Court.

8 38. InterTrust is informed and believes, and on that basis alleges, that Microsoft has
9 been and is knowingly and intentionally inducing others to infringe directly the '861 patent under
10 § 271(a), thereby inducing infringement of the '861 patent under § 271(b). InterTrust is further
11 informed and believes that Microsoft's inducement has at least included the manner in which
12 Microsoft has promoted and marketed use of Digital Asset Server, Microsoft Reader, and the
13 .NET architecture. InterTrust is further informed and believes, and on that basis alleges, that
14 Microsoft's infringement of the '861 patent under §271(b) will continue unless enjoined by this
15 Court.

16 39. InterTrust is informed and believes, and on that basis alleges, that Microsoft has
17 been and is contributorily infringing the '861 patent under § 271(c) by providing digital rights
18 management software and related functions especially made or especially adapted for infringing
19 use and not staple articles or commodities of commerce suitable for substantial noninfringing
20 use, including but not limited to the Digital Asset Server and Microsoft Reader. InterTrust is
21 further informed and believes, and on that basis alleges, that Microsoft's infringement of the
22 '861 patent under §271(c) will continue unless enjoined by this Court.

23 40. InterTrust is informed and believes, and on that basis alleges, that Microsoft is
24 willfully infringing the '861 patent in the manner described above in paragraphs 37 through 39,
25 and will continue to do so unless enjoined by this Court.

26 41. InterTrust is informed and believes, and on that basis alleges, that Microsoft has
27 derived and received, and will continue to derive and receive from the aforesaid acts of
28 infringement gains, profits, and advantages, tangible and intangible, the extent of which are not

1 presently known to InterTrust. By reason of the aforesaid acts of infringement, InterTrust has
2 been, and will continue to be, irreparably harmed.

3 **FIFTH CLAIM FOR RELIEF**

4 42. InterTrust hereby incorporates by reference paragraphs 1-6 and 11 as if restated
5 herein.

6 43. This is a claim for patent infringement under 35 U.S.C. §§ 271 and 281.

7 44. InterTrust is informed and believes, and on that basis alleges, that Microsoft has
8 been and is infringing the '900 patent under § 271(a) by Microsoft's use of the Product
9 Activation feature of Windows XP, Office XP, and other Microsoft products. In addition, on
10 information and belief, InterTrust alleges that Microsoft is making and using other systems
11 and/or is in the process of developing other systems, which infringe the '900 patent under §
12 271(a). InterTrust is further informed and believes, and on that basis alleges, that Microsoft's
13 infringement of the '900 patent under §271(a) will continue unless enjoined by this Court.

14 45. InterTrust is informed and believes, and on that basis alleges, that Microsoft has
15 been and is knowingly and intentionally inducing others to infringe directly the '900 patent under
16 § 271(a), thereby inducing infringement of the '900 patent under § 271(b). InterTrust is further
17 informed and believes that Microsoft's inducement has at least included the manner in which
18 Microsoft has promoted and marketed use of the Product Activation feature of Windows XP,
19 Office XP, and other Microsoft products. InterTrust is further informed and believes, and on that
20 basis alleges, that Microsoft's infringement of the '900 patent under §271(b) will continue unless
21 enjoined by this Court.

22 46. InterTrust is informed and believes, and on that basis alleges, that Microsoft has
23 been and is contributorily infringing the '900 patent under § 271(c) by providing digital rights
24 management software and related functions especially made or especially adapted for infringing
25 use and not staple articles or commodities of commerce suitable for substantial noninfringing
26 use, including the Product Activation feature of Windows XP, Office XP, and other Microsoft
27 products. InterTrust is further informed and believes, and on that basis alleges, that Microsoft's
28 infringement of the '900 patent under §271(c) will continue unless enjoined by this Court.

1 been and is contributorily infringing the '891 patent under § 271(c) by providing .NET software
2 and related functions especially made or especially adapted for infringing use and not staple
3 articles or commodities of commerce suitable for substantial noninfringing use. InterTrust is
4 further informed and believes, and on that basis alleges, that Microsoft's infringement of the
5 '891 patent under §271(c) will continue unless enjoined by this Court.

6 54. InterTrust is informed and believes, and on that basis alleges, that Microsoft is
7 willfully infringing the '891 patent in the manner described above in paragraphs 51 through 53,
8 and will continue to do so unless enjoined by this Court.

9 55. InterTrust is informed and believes, and on that basis alleges, that Microsoft has
10 derived and received, and will continue to derive and receive from the aforesaid acts of
11 infringement gains, profits, and advantages, tangible and intangible, the extent of which are not
12 presently known to InterTrust. By reason of the aforesaid acts of infringement, InterTrust has
13 been, and will continue to be, irreparably harmed.

14 **SEVENTH CLAIM FOR RELIEF**

15 56. InterTrust hereby incorporates by reference paragraphs 1-6 and 13 as if restated
16 herein.

17 57. This is a claim for patent infringement under 35 U.S.C. §§ 271 and 281.

18 58. InterTrust is informed and believes, and on that basis alleges, that Microsoft has
19 been and is infringing the '912 patent under § 271(a) by Microsoft's implementation of its .NET
20 architecture. In addition, on information and belief, InterTrust alleges that Microsoft is making
21 and using other systems and/or is in the process of developing other systems, which infringe the
22 '912 patent under § 271(a). InterTrust is further informed and believes, and on that basis alleges,
23 that Microsoft's infringement of the '912 patent under §271(a) will continue unless enjoined by
24 this Court.

25 59. InterTrust is informed and believes, and on that basis alleges, that Microsoft has
26 been and is knowingly and intentionally inducing others to infringe directly the '912 patent under
27 § 271(a), thereby inducing infringement of the '912 patent under § 271(b). InterTrust is further
28 informed and believes that Microsoft's inducement has at least included the manner in which

1 Microsoft has promoted and marketed use of its .NET architecture. InterTrust is further
2 informed and believes, and on that basis alleges, that Microsoft's infringement of the '912 patent
3 under §271(b) will continue unless enjoined by this Court.

4 60. InterTrust is informed and believes, and on that basis alleges, that Microsoft has
5 been and is contributorily infringing the '912 patent under § 271(c) by providing .NET software
6 and related functions especially made or especially adapted for infringing use and not staple
7 articles or commodities of commerce suitable for substantial noninfringing use. InterTrust is
8 further informed and believes, and on that basis alleges, that Microsoft's infringement of the
9 '912 patent under §271(c) will continue unless enjoined by this Court.

10 61. InterTrust is informed and believes, and on that basis alleges, that Microsoft is
11 willfully infringing the '912 patent in the manner described above in paragraphs 58 through 60,
12 and will continue to do so unless enjoined by this Court.

13 62. InterTrust is informed and believes, and on that basis alleges, that Microsoft has
14 derived and received, and will continue to derive and receive from the aforesaid acts of
15 infringement gains, profits, and advantages, tangible and intangible, the extent of which are not
16 presently known to InterTrust. By reason of the aforesaid acts of infringement, InterTrust has
17 been, and will continue to be, irreparably harmed.

18

19 **PRAYER FOR RELIEF**

20 WHEREFORE, InterTrust prays for relief as follows:

21 A. That Microsoft be adjudged to have infringed the '683 patent under 35 U.S.C. §
22 271(a);

23 B. That Microsoft be adjudged to have infringed the '683 patent under 35 U.S.C. §
24 271(b) by inducing others to infringe directly the '683 patent under 35 U.S.C. § 271(a);

25 C. That Microsoft be adjudged to have contributorily infringed the '683 patent under
26 35 U.S.C. § 271(c);

27 D. That Microsoft be adjudged to have willfully infringed the '683 patent under 35
28 U.S.C. §§ 271(a), (b), and (c);

1 E. That Microsoft, its officers, agents, servants, employees and attorneys, and those
2 persons in active concert or participation with them be preliminarily and permanently restrained
3 and enjoined under 35 U.S.C. § 283 from directly or indirectly infringing the '683 patent;

4 F. That Microsoft be adjudged to have infringed the '193 patent under 35 U.S.C. §
5 271(a);

6 G. That Microsoft be adjudged to have infringed the '193 patent under 35 U.S.C. §
7 271(b) by inducing others to infringe directly the '193 patent under 35 U.S.C. § 271(a);

8 H. That Microsoft be adjudged to have contributorily infringed the '193 patent under
9 35 U.S.C. § 271(c);

10 I. That Microsoft be adjudged to have willfully infringed the '193 patent under 35
11 U.S.C. §§ 271(a), (b), and (c);

12 J. That Microsoft, its officers, agents, servants, employees and attorneys, and those
13 persons in active concert or participation with them be preliminarily and permanently restrained
14 and enjoined under 35 U.S.C. § 283 from directly or indirectly infringing the '193 patent;

15 K. That Microsoft be adjudged to have infringed the '504 patent under 35 U.S.C. §
16 271(a);

17 L. That Microsoft be adjudged to have infringed the '504 patent under 35 U.S.C. §
18 271(b) by inducing others to infringe directly the '504 patent under 35 U.S.C. § 271(a);

19 M. That Microsoft be adjudged to have contributorily infringed the '504 patent under
20 35 U.S.C. § 271(c);

21 N. That Microsoft be adjudged to have willfully infringed the '504 patent under 35
22 U.S.C. §§ 271(a), (b), and (c);

23 O. That Microsoft, its officers, agents, servants, employees and attorneys, and those
24 persons in active concert or participation with them be preliminarily and permanently restrained
25 and enjoined under 35 U.S.C. § 283 from directly or indirectly infringing the '504 patent;

26 P. That this Court award damages to compensate InterTrust for Microsoft's
27 infringement, as well as enhanced damages, pursuant to 35 U.S.C. § 284;

28 Q. That this Court adjudge this case to be exceptional and award reasonable

1 attorney's fees to InterTrust pursuant to 35 U.S.C. § 285;

2 R. That Microsoft be adjudged to have infringed the '861 patent under 35 U.S.C. §
3 271(a);

4 S. That Microsoft be adjudged to have infringed the '861 patent under 35 U.S.C. §
5 271(b) by inducing others to infringe directly the '861 patent under 35 U.S.C. § 271(a);

6 T. That Microsoft be adjudged to have contributorily infringed the '861 patent under
7 35 U.S.C. § 271(c);

8 U. That Microsoft be adjudged to have willfully infringed the '861 patent under 35
9 U.S.C. §§ 271(a), (b), and (c);

10 V. That Microsoft, its officers, agents, servants, employees and attorneys, and those
11 persons in active concert or participation with them be preliminarily and permanently restrained
12 and enjoined under 35 U.S.C. § 283 from directly or indirectly infringing the '861 patent;

13 W. That Microsoft be adjudged to have infringed the '900 patent under 35 U.S.C. §
14 271(a);

15 X. That Microsoft be adjudged to have infringed the '900 patent under 35 U.S.C. §
16 271(b) by inducing others to infringe directly the '900 patent under 35 U.S.C. § 271(a);

17 Y. That Microsoft be adjudged to have contributorily infringed the '900 patent under
18 35 U.S.C. § 271(c);

19 Z. That Microsoft be adjudged to have willfully infringed the '900 patent under 35
20 U.S.C. §§ 271(a), (b), and (c);

21 AA. That Microsoft, its officers, agents, servants, employees and attorneys, and those
22 persons in active concert or participation with them be preliminarily and permanently restrained
23 and enjoined under 35 U.S.C. § 283 from directly or indirectly infringing the '900 patent;

24 BB. That Microsoft be adjudged to have infringed the '891 patent under 35 U.S.C. §
25 271(a);

26 CC. That Microsoft be adjudged to have infringed the '891 patent under 35 U.S.C. §
27 271(b) by inducing others to infringe directly the '891 patent under 35 U.S.C. § 271(a);

28 DD. That Microsoft be adjudged to have contributorily infringed the '891 patent under

1 35 U.S.C. § 271(c);

2 EE. That Microsoft be adjudged to have willfully infringed the '891 patent under 35
3 U.S.C. §§ 271(a), (b), and (c);

4 FF. That Microsoft, its officers, agents, servants, employees and attorneys, and those
5 persons in active concert or participation with them be preliminarily and permanently restrained
6 and enjoined under 35 U.S.C. § 283 from directly or indirectly infringing the '891 patent;

7 GG. That Microsoft be adjudged to have infringed the '912 patent under 35 U.S.C. §
8 271(a);

9 HH. That Microsoft be adjudged to have infringed the '912 patent under 35 U.S.C. §
10 271(b) by inducing others to infringe directly the '912 patent under 35 U.S.C. § 271(a);

11 II. That Microsoft be adjudged to have contributorily infringed the '912 patent under
12 35 U.S.C. § 271(c);

13 JJ. That Microsoft be adjudged to have willfully infringed the '912 patent under 35
14 U.S.C. §§ 271(a), (b), and (c);

15 KK. That Microsoft, its officers, agents, servants, employees and attorneys, and those
16 persons in active concert or participation with them be preliminarily and permanently restrained
17 and enjoined under 35 U.S.C. § 283 from directly or indirectly infringing the '912 patent;

18
19 LL. That this Court assess pre-judgment and post-judgment interest and costs against
20 Microsoft, and award such interest and costs to InterTrust, pursuant to 35 U.S.C. § 284; and

21 MM. That InterTrust have such other and further relief as the Court may deem proper.

22 Dated: October 26, 2001

KEKER & VAN NEST, LLP

23
24 By: 

MICHAEL H. PAGE
Attorneys for Plaintiff
INTERTRUST TECHNOLOGIES
CORPORATION

1 **DEMAND FOR JURY TRIAL**

2 Plaintiff InterTrust hereby demands a trial by jury as to all issues triable by jury,
3 specifically including, but not limited to, the issue of infringement of United States Patent Nos.
4 6,185,683 B1; 6,253,193 B1; 5,940,504; 5,920,861; 5,892,900; 5,982,891; and 5,917,912.

5
6 Dated: October 26, 2001

KEKER & VAN NEST, LLP

7
8
9 By: 

MICHAEL H. PAGE
Attorneys for Plaintiff
INTERTRUST TECHNOLOGIES
CORPORATION